

MONTANA PUBLIC SERVICE COMMISSION UPDATE TO
THE ENERGY & TELECOMMUNICATIONS INTERIM COMMITTEE
STATUS OF DOCKETS

January 18, 2021
Chairman James Brown

1. NorthWestern Energy

Capacity Acquisition – Docket 2021.02.022

- In September, the Commission informed the Committee of NorthWestern’s intent to withdraw its request filed in May 2021 for approval of two capacity resources selected in a competitive solicitation process the Company initiated in January 2020.
- The two capacity resources included in the application were:
 - a 20-year agreement with a 50 MW battery energy storage facility to be constructed in Yellowstone County;
 - a 175 MW natural gas-fired plant to be constructed for and owned by NorthWestern in Laurel, Montana.
- NorthWestern ultimately requested to withdraw its request for approval of these resources, which rendered the proceeding unnecessary.
- On October 12, 2021, the Commission dismissed this matter.

NorthWestern Application to Increase PCCAM Base Cost Level – Docket 2021.04.047

- In September, the Commission reported on the status of NorthWestern’s application to increase the base electricity supply cost level for its Power Costs and Credits Adjustment Mechanism (“PCCAM”).
- The Commission had issued an interim order approving NorthWestern’s proposed base supply cost on June 30.
- In August, the Montana Consumer Counsel filed a motion to dismiss NorthWestern’s application. The MCC asserted that adjustments to base electricity supply costs between comprehensive rate cases were not authorized by the Commission’s order implementing the PCCAM and that between-rate-case adjustments would undermine the intent of the 90%-10% cost sharing in the mechanism.
- The Commission held an oral argument on the MCC’s motion on September 14.
- On October 5, the Commission granted MCC’s motion and dismissed NorthWestern’s application.

- The Commission's action resulted in a need to refund customers approximately \$8.5 million in unauthorized revenue collected under interim-approved rates, including interest.
- Rates implementing the refund took effect on January 1, 2022, and are projected to extinguish on June 30, 2022.

[PCCAM Annual Rate Adjustment – Docket 2021.09.112](#)

- On August 31, 2021, NorthWestern filed its Application for annual PCCAM rate adjustments based on the tracking period July 2020 through June 2021.
- NorthWestern seeks to recovery approximately \$18 Million in deferred costs.
- If approved, the PCCAM rate adjustment would result in an increase in NorthWestern's electricity supply rates of approximately 2%.
- Under the PCCAM, NorthWestern's proposed rate adjustments automatically took effect on October 1, 2021, subject to refund.
- NorthWestern's application also seeks approval to enter into off-system fixed price hedge transactions to mitigate market price risks.
- The MCCC has intervened in the proceeding and its testimony is due January 21, 2022.
- A public hearing is scheduled for April 19, 2022.

[Beartooth Battery Energy Storage PPA Approval Application – Docket 2021.11.132](#)

- On December 21, NorthWestern filed its Application for Approval of Beartooth Energy Storage Agreement.
- The agreement involves a 20-year commitment to purchase energy, capacity, and ancillary services from the 50 megawatt storage facility to be constructed in Yellowstone County.
- Pursuant to the provisions of the preapproval statute, the Commission has 270 days to process the Application, unless extraordinary circumstances arise.
- A notice of application and intervention deadline was issued on January 11, 2022.
- The Commission is in the process of assessing whether the application is adequate and in compliance with minimum filing requirements. The Commission has 45 days to make that determination.

[Combined Electric and Natural Gas General Rate Case – TBD](#)

- NorthWestern intends to file a combined electric and natural gas general rate case sometime in the second quarter of 2022.
- In addition to the typical review of the sufficiency of revenue from existing rates, class revenue responsibility, and rate design matters, NorthWestern intends to request that the Commission revisit the structure of a pilot decoupling mechanism approved in the

last electric rate case, which was not implemented due to pandemic-related load impacts.

- NorthWestern will also request that the Commission revisit the mechanics of the Power Costs and Credits Adjustment Mechanism (PCCAM) and may request approval of procedures for including the costs of the Laurel Generating Plant in rates, once completed.

2. PURPA Implementation

Caithness Beaver Creek (“CBC”) Petition for Contract Rates and Terms – Docket 2019.06.034

- CBC represents two hybrid wind-battery energy storage QFs, each comprising 60 MW of installed wind capacity and 20 MW of installed battery storage. Maximum delivered energy is 80 MW from each project.
- Methods for estimating avoided costs for hybrid qualifying facilities are not well established in the regulatory literature or in other state regulatory commission orders.
- The Commission issued a final order in December 2019, and an order on reconsideration in February 2020.
- CBC appealed the Commission’s orders to the First Judicial District Court. The Court issued an order in December 2020 upholding some of the Commission’s decisions and remanding the matter back to the Commission to correct various decisions the Court determined were arbitrary and capricious or not well supported by record evidence.
- In August 2021 the Commission issued an order on remand in response to the Court’s decision.
- NorthWestern filed a motion for reconsideration of the Commission’s order on remand on August 19.
- A series of subsequent motions and responses were filed by CBC and NorthWestern that raised several procedural, legal, and factual matters pertaining to the determination of rates compliant with the Court’s order and the Commission’s order on remand.
- On November 4, the Commission issued an Order on Reconsideration of its Order on Remand.
- NorthWestern filed a calculation of avoided cost rates to comply with the Order on Reconsideration on November 18. NorthWestern included a deduction to avoided cost rates for interconnection costs CBC had committed to pay.
- CBC filed a motion to strike the compliance filing on November 24.
- The Commission issued an order granting CBC’s motion to strike on December 20.
- Both NorthWestern and CBC filed motions for reconsideration of the order on the motion to strike.
- The Commission will be addressing these motions in the next several weeks.

[Jawbone Holdings, LLC, Petition for Contract Rates and Terms – Docket 2020.12.126](#)

- Jawbone is an approximately 80 MW wind facility to be located near Harlowton, in Wheatland County.
- Jawbone submitted its Petition, pursuant to Mont. Code Ann. §69-3-603, in December 2020 requesting that the Commission set avoided cost rates and terms for a contract with NorthWestern.
- The Commission conducted a public hearing in May 2021.
- The Commission issued a final order on October 29, 2021.
- NorthWestern and Jawbone each filed motions for reconsideration in November.
- On December 14, the Commission denied the motions of NorthWestern and Jawbone.
- The Commission is in the process of preparing its written order on reconsideration.

[Caithness Beaver Creek \(“CBC”\) Petition – Docket 2021.12.134.](#)

- On December 1, Caithness Beaver Creek filed a petition requesting that the Commission establish the contract rates and terms of a QF power purchase and sale agreement for two additional QF projects, which would be located in the same general area as the two CBC projects that are the subject of Docket 2019.06.034.
- The two additional projects are also hybrid wind-battery energy storage projects.
- Each project would consist of 50 MW of installed wind capacity and 30 MW of installed battery storage capacity.
- The Commission issued a Notice of Petition and Opportunity to Intervene on December 14. NorthWestern and Montana Consumer Counsel have been granted intervention.
- Staff is working with the parties to set a procedural schedule based on the availability of the parties’ witnesses.

[Application for Approval of Interconnection Procedures and Agreements for QFs – Docket 2021.08.106](#)

- In August, NorthWestern filed an application for approval of interconnection procedures and agreements that would control interconnection of PURPA qualifying facilities (“QFs”) to NorthWestern’s transmission system.
- After providing notice of the application, the Commission granted intervention to several QFs—Caithness Beaver Creek, Broad Reach Power, Clenera, and CELP—and the MCC on September 2.
- The QF intervenors filed several motions challenging the Commission’s procedural order and the nature of the proceeding and requested that the Commission dismiss the application.

- On December 28, the Commission denied outstanding motions.
- Commission staff will be conferring with parties on the nature and scope of further process in the proceeding and prepare an amended procedural schedule.

[Petition for Rulemaking to Incorporate FERC Rules – Docket 2021.09.118](#)

- In September 2021, NorthWestern filed a petition for rulemaking, which requests that the Commission initiate a rulemaking proceeding to reflect recent changes to the regulations of the Federal Energy Regulatory Commission (“FERC”) implementing PURPA.
- NorthWestern contends that the changes to FERC’s regulations allow state commissions to set more accurate avoided cost rates in long-term contracts.
- One of the primary changes in FERC’s regulations authorizes state commissions to set variable rates for energy based on avoided costs calculated at the time of delivery in the context of a long-term contract or other legally enforceable obligation.
- In November 2021, the Commission issued a Notice of Opportunity to Comment on NorthWestern’s petition. Comments were submitted by several QF developers and the MCC.
- Next steps may include a Commission staff-hosted roundtable with parties to work on resolving differences prior to initiating formal rulemaking.

[3. Montana-Dakota Utilities](#)

[MDU Integrated Resource Plan – Docket 2021.09.117](#)

- On September 15, 2021, MDU filed its biennial integrated resource plan.
- The Commission provided public notice of the plan on October 14, set a deadline for written comments of January 21, 2022, and scheduled a public comment session for January 25, 2022, at 1:30 p.m.
- The Commission is required to hold two public meetings to receive public comments. The details of a second public meeting are still being developed.

[MDU Rate 93 \(Standard Rates for Small QFs\) – Docket 2021.10.123](#)

- In October, MDU filed to update its standard tariff rates available to QFs 3 MW or less.
- The MCC is the only intervenor in the case.
- MCC’s testimony is due January 28.

[MDU Application for Deferred Accounting – Docket 2021.12.138](#)

- On December 9, 2021, MDU filed its Application for Authority for Deferred Accounting.

- MDU requested a Commission order authorizing deferred accounting treatment for costs associated with the investigation and remediation of a former manufactured gas plant site located in Missoula.
- MDU is currently investigating the scope and cost of site remediation and seeks to defer the costs for presentation in a future general gas rate case
- This Commission a notice of application and intervention deadline on January 10, with an intervention deadline of January 31.

MDU Electric General Rate Case – TBD

- MDU intends to file an electric general rate case in the third quarter of 2022.
- MDU has indicated that its rate request will be based on a split test year comprising the second half of 2021 and the first half of 2022.
- In addition, MDU indicated that its rate application will include an analysis of depreciation rates for its various capital investments.

4. North Star Water and Sewer

- In August 2020 the Commission received multiple complaints from homeowners in a subdivision served by North Star Water and Sewer that the Company was shutting off water service in response to overuse of water for lawn irrigation.
- The Commission initiated an investigation, under Docket No. 2020.09.094, for the purpose of addressing concerns as to the adequacy of North Star's water and sewer service to its customers and mitigating the likelihood of future shut-offs of water service in the subdivision.
- The Commission did not successfully complete its investigation prior to the 2021 watering season. In late summer 2021, the PSC again received complaints of inadequate water service by North Star.
- The Commission directed North Star to procure and keep in its inventory a backup distribution pump (failure of the main distribution pump contributed service interruptions) and to work with homeowners to establish an acceptable watering schedule.
- The Commission continues to investigate long-term adequacy issues involving installation and testing of meters, alternative pricing structures, and water rights issues.
- The Commission instituted a requirement for North Star to submit monthly status reports on several service quality items, including metering and data on water production and consumption.

5. Telecommunications Regulation Modernization

Notice Requesting Public Comment on Modernizing Telecommunications Regulation – Docket 2021.10.125

- The Montana Telecommunications Act was enacted in 1985.
- The Act establishes a policy of universal availability of basic telecommunications service at affordable rates and provides for an “orderly transition from a regulated telecommunications industry to a competitive market environment.” Mont. Code Ann. § 69-3-802.
- The Commission has adopted rules that implement the Act. Mont. Admin. R. 38.5.2701 through 38.5.4200.
- As telecommunications markets have evolved over time, the Commission’s regulation has responded. For example, in 2000, the Commission waived requirements for certain competitive local phone service providers to file tariffs or price lists, and in 2014 the Commission removed tariff requirements for the two former monopoly local phone companies (Citizens Telecommunications d/b/a Frontier Communications and CenturyLink).
- The purpose of this Docket is to assess whether, given current technology and the state of markets for telecommunications services, further changes in Commission regulation and/or governing statutes are warranted.
- As a first step in the assessment, the Commission requested public comments by January 22 on two primary issues: the appropriate level of Commission regulation given current and expected market structures and technologies; and appropriate modifications to Commission rules and regulations to achieve the appropriate level of regulation.

6. Other dockets and non-dockets

2021.06.094 – Wibaux County Complaint against CenturyLink Communications, LLC

- In June 2021 Wibaux County filed a complaint alleging that telephone service provided by CenturyLink in Wibaux County is inadequate, that customers are often without service, sometimes for weeks at a time, that 911 service does not function properly, and that Wibaux needs adequate broadband service.
- The Commission accepted the complaint and directed CenturyLink to respond to the complaint. CenturyLink complied on August 16.
- The Commission issued a Notice of Opportunity to Intervene and established deadline of September 9, 2021, for intervention requests. No party requested intervention.
- CenturyLink filed a motion to dismiss on October 6, 2021, which the Commission granted on December 7, 2021.

2021.12.136 – Investigation into the Adequacy of Infrastructure of CenturyLink

- Concurrent with its dismissal of the complaint of Wibaux County, the Commission initiated an investigation into the adequacy of legacy infrastructure operated by Qwest Corporation d/b/a CenturyLink QC.
- The investigation is based on the Commission's receipt of formal and informal complaints alleging that the infrastructure used to provide service in rural areas of Montana is inadequate, resulting in long service outages, inability to access 911 services, and falsely initiated calls to 911 services.
- In a Notice of Commission Action issued December 10, 2021, the Commission invited any party affected by the Commission's investigation to intervene in the proceeding. The deadline for intervention is January 31.
- The Commission also invited members of the public that do not wish to formally intervene in the proceeding to submit written comments on the matter.

2021.05.073 – Town of Kevin's Complaint against North Central Montana Regional Water Authority

- The Town of Kevin has filed a complaint with the Commission alleging that the North Central Regional Water Authority (of which Kevin is a member) is a public utility and should be subject to Commission jurisdiction.
- The Commission accepted the complaint and issued a procedural order in July.
- Intervention has been granted to City of Shelby and Montana Consumer Counsel.
- The discovery process was completed on December 3, 2021.
- On December 17, 2021, North Central Montana Regional Water Authority filed a motion to dismiss the complaint.
- On December 27, 2021, Town of Kevin filed its opposition to the motion to dismiss.

2021.01.015 – Sale and Transfer of Energy West Montana and Cut Bank Gas

- In January 2021, the parent company of Energy West Montana and Cut Bank Gas, Hearthstone Utilities ("HUI"), filed a joint application with Ullico Infrastructure Master Fund requesting approval for a sale and transfer of HUI and its subsidiaries to wholly-owned subsidiaries of Ullico Master Fund.
- The Commission provided public notice of receipt of the application in February.
- In March, the Commission granted intervention to the Montana Consumer Counsel and issued an initial procedural order.
- The parties reached a settlement agreement in July regarding the terms under which the sale and transfer would be in the public interest.
- The Commission conducted a public hearing on the settlement agreement on September 21.
- On November 5, 2021, the Commission issued a final order approving the joint application subject to several conditions outlined in the order.